

1 HOUSE BILL NO. 671

2 INTRODUCED BY W. STAHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE DEFINITION OF "AVERAGE NUMBER
5 BELONGING" TO "ACTUAL NUMBER BELONGING"; AMENDING SECTIONS 7-2-2253, 20-1-101, 20-3-106,
6 20-3-205, 20-6-502, 20-6-503, 20-6-504, 20-6-506, 20-9-311, 20-9-313, 20-9-314, AND 20-9-707, MCA; AND
7 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 7-2-2253, MCA, is amended to read:

12 **"7-2-2253. Procedure to transfer money to school and road funds.** (1) The county superintendent
13 of schools of an old county shall furnish the county superintendent of schools of the new county with a
14 certification of the ~~average~~ actual number belonging (ANB) in the different school districts in the territory set apart
15 to form the new county and shall certify to the board of county commissioners of the old county the amount due.
16 The board of the old county shall order a warrant drawn on the treasury of the old county for all the money that
17 is or may be due by apportionment or otherwise to the different school districts embraced in the new county and
18 taken from the old county.

19 (2) The county treasurer shall certify to the county commissioners of an old county the amount due in
20 the different road funds. The county commissioners shall order a warrant drawn on the treasury of the old county
21 in favor of the new county for all money that is or may be due by apportionment or otherwise to the different road
22 and district funds in the territory set apart to form the new county and taken from the old county, which amounts
23 ~~shall~~ must be properly credited in both counties.

24 (3) Whenever in the formation of a new county a road or school district has been divided, the board of
25 county commissioners shall by resolution direct the treasurer to transfer the proper proportionate amount of the
26 money remaining in the fund of ~~such~~ the district to the treasurer of the new county."

27
28 **Section 2.** Section 20-1-101, MCA, is amended to read:

29 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
30 definitions apply:

- 1 (1) "Accreditation standards" means the body of administrative rules governing standards such as:
2 (a) school leadership;
3 (b) educational opportunity;
4 (c) academic requirements;
5 (d) program area standards;
6 (e) content and performance standards;
7 (f) school facilities and records;
8 (g) student assessment; and
9 (h) general provisions.
- 10 (2) "Actual number belonging" or "ANB" means the actual number of regularly enrolled, full-time pupils
11 physically attending or receiving educational services from the public schools of a district as compiled on a
12 class-by-class and day-by-day basis. Pupils with valid medical or parental excuses must be included for purposes
13 of calculating actual number belonging.
- 14 ~~(2)(3)~~ "Aggregate hours" means the hours of pupil instruction for which a school course or program is
15 offered or for which a pupil is enrolled.
- 16 ~~(3)(4)~~ "Agricultural experiment station" means the agricultural experiment station established at Montana
17 state university-Bozeman.
- 18 ~~(4)(5)~~ "At-risk student" means any student who is affected by environmental conditions that negatively
19 impact the student's educational performance or threaten a student's likelihood of promotion or graduation.
- 20 ~~(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time~~
21 ~~pupils physically attending or receiving educational services at an offsite instructional setting from the public~~
22 ~~schools of a district.~~
- 23 (6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the
24 Montana constitution and 2-15-1507.
- 25 (7) "Board of regents" means the board of regents of higher education created by Article X, section 9,
26 subsection (2), of the Montana constitution and 2-15-1505.
- 27 (8) "Commissioner" means the commissioner of higher education created by Article X, section 9,
28 subsection (2), of the Montana constitution and 2-15-1506.
- 29 (9) "County superintendent" means the county government official who is the school officer of the county.
- 30 (10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with

1 a superintendent's endorsement that has been issued by the superintendent of public instruction under the
2 provisions of this title and the policies adopted by the board of public education and who has been employed by
3 a district as a district superintendent.

4 (11) (a) "Educational program" means a set of educational offerings designed to meet the program area
5 standards contained in the accreditation standards.

6 (b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

7 (12) "K-12 career and vocational/technical education" means organized educational activities that have
8 been approved by the office of public instruction and that:

9 (a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills
10 that the pupil needs to prepare for further education and for careers in the current or emerging employment
11 sectors; and

12 (b) include competency-based applied learning that contributes to the academic knowledge, higher-order
13 reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and
14 occupation-specific skills of the pupil.

15 (13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be
16 conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

17 (b) The term does not include lunch time and periods of unstructured recess.

18 (14) "Offsite instructional setting" means an instructional setting at a location, separate from a main
19 school site, where a school district provides for the delivery of instruction to a student who is enrolled in the
20 district.

21 (15) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable
22 principal's endorsement that has been issued by the superintendent of public instruction under the provisions of
23 this title and the policies adopted by the board of public education and who has been employed by a district as
24 a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

25 (16) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which
26 the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but
27 who has not yet reached 19 years of age and who is enrolled in a school established and maintained under the
28 laws of the state at public expense. For purposes of calculating the ~~average~~ actual number belonging pursuant
29 to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10
30 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state

1 at public expense.

2 (17) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools
3 while under the supervision of a teacher.

4 (18) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed
5 in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established
6 by the board of public education.

7 (19) "Regents" means the board of regents of higher education.

8 (20) "School food services" means a service of providing food for the pupils of a district on a nonprofit
9 basis and includes any food service financially assisted through funds or commodities provided by the United
10 States government.

11 (21) "State board of education" means the board composed of the board of public education and the
12 board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

13 (22) "State university" means Montana state university-Bozeman.

14 (23) "Student with limited English proficiency" means any student:

15 (a) (i) who was not born in the United States or whose native language is a language other than English;

16 (ii) who is an American Indian and who comes from an environment in which a language other than
17 English has had a significant impact on the individual's level of English proficiency; or

18 (iii) who is migratory, whose native language is a language other than English, and who comes from an
19 environment in which a language other than English is dominant; and

20 (b) whose difficulties in speaking, reading, writing, or understanding the English language may be
21 sufficient to deny the student:

22 (i) the ability to meet the state's proficiency assessments;

23 (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

24 (iii) the opportunity to participate fully in society.

25 (24) "Superintendent of public instruction" means that state government official designated as a member
26 of the executive branch by the Montana constitution.

27 (25) "System" means the Montana university system.

28 (26) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher
29 certificate that has been issued by the superintendent of public instruction under the provisions of this title and
30 the policies adopted by the board of public education and who is employed by a district as a member of its

1 instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an
2 emergency authorization of employment has been issued under the provisions of 20-4-111.

3 (27) "Textbook" means a book or manual used as a principal source of study material for a given class
4 or group of students.

5 (28) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell,
6 or offering for adoption textbooks to districts in the state.

7 (29) "Trustees" means the governing board of a district.

8 (30) "University" means the university of Montana-Missoula.

9 (31) "Vocational-technical education" means vocational-technical education of vocational-technical
10 students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled
11 community college, as designated by the board of regents."
12

13 **Section 3.** Section 20-3-106, MCA, is amended to read:

14 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has
15 the general supervision of the public schools and districts of the state and shall perform the following duties or
16 acts in implementing and enforcing the provisions of this title:

17 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the
18 provisions of 20-3-362;

19 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

20 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
21 20-5-314;

22 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of
23 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

24 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

25 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
26 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and
27 20-9-506;

28 (7) establish a system of communication for calculating joint district revenue in accordance with the
29 provisions of 20-9-151;

30 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions

1 prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment
2 in accordance with the approval and disbursement provisions of 20-9-166;

3 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
4 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
5 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county
6 superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

7 (11) approve, disapprove, or adjust an increase of the ~~average~~ actual number belonging (ANB) in
8 accordance with the provisions of 20-9-313 and 20-9-314;

9 (12) distribute BASE aid and special education allowable cost payments in support of the BASE funding
10 program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366
11 through 20-9-369;

12 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed by
13 the provisions of 20-10-112;

14 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;
15 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
16 accordance with the provisions of 20-9-703 and 20-9-704;

17 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
18 with the provisions of 20-9-705;

19 (17) recommend standards of accreditation for all schools to the board of public education and evaluate
20 compliance with the standards and recommend accreditation status of every school to the board of public
21 education in accordance with the provisions of 20-7-101 and 20-7-102;

22 (18) collect and maintain a file of curriculum guides and assist schools with instructional programs in
23 accordance with the provisions of 20-7-113 and 20-7-114;

24 (19) establish and maintain a library of visual, aural, and other educational media in accordance with the
25 provisions of 20-7-201;

26 (20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance
27 with the provisions of the textbooks part of this title;

28 (21) as the governing agent and executive officer of the state of Montana for K-12 career and
29 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
30 20-7-301;

1 (22) supervise and coordinate the conduct of special education in the state in accordance with the
2 provisions of 20-7-403;

3 (23) administer the traffic education program in accordance with the provisions of 20-7-502;

4 (24) administer the school food services program in accordance with the provisions of 20-10-201 through
5 20-10-203;

6 (25) review school building plans and specifications in accordance with the provisions of 20-6-622;

7 (26) provide schools with information and technical assistance for compliance with the student
8 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
9 the board of public education and the legislature;

10 (27) upon request and in compliance with confidentiality requirements of state and federal law, disclose
11 to interested parties all school district student assessment data for a test required by the board of public
12 education;

13 (28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;
14 and

15 (29) perform any other duty prescribed from time to time by this title, any other act of the legislature, or
16 the policies of the board of public education."

17

18 **Section 4.** Section 20-3-205, MCA, is amended to read:

19 **"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools
20 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

21 (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions
22 of 20-3-352, 20-3-353, and 20-3-354;

23 (b) administer and file the oaths of members of the boards of trustees of the districts in the county in
24 accordance with the provisions of 20-3-307;

25 (c) register the teacher or specialist certificates or emergency authorization of employment of any person
26 employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the
27 provisions of 20-4-202;

28 (d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

29 (e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

30 (f) keep a transcript of the district boundaries of the county;

- 1 (g) fulfill all responsibilities assigned under the provisions of this title regulating the organization,
2 alteration, or abandonment of districts;
- 3 (h) act on any unification proposition and, if approved, establish additional trustee nominating districts
4 in accordance with 20-6-312 and 20-6-313;
- 5 (i) ~~estimate~~ calculate the ~~average~~ actual number belonging (ANB) of an opening school in accordance
6 with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;
- 7 (j) process and, when required, act on school isolation applications in accordance with the provisions
8 of 20-9-302;
- 9 (k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget
10 amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school
11 budgeting systems;
- 12 (l) submit an annual financial report to the superintendent of public instruction in accordance with the
13 provisions of 20-9-211;
- 14 (m) monthly, unless otherwise provided by law, order the county treasurer to apportion state money,
15 county school money, and any other school money subject to apportionment in accordance with the provisions
16 of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;
- 17 (n) act on any request to transfer ~~average~~ actual number belonging (ANB) in accordance with the
18 provisions of 20-9-313(1)(c);
- 19 (o) calculate the estimated budgeted general fund sources of revenue in accordance with the general
20 fund revenue provisions of the general fund part of this title;
- 21 (p) compute the revenue and compute the district and county levy requirements for each fund included
22 in each district's final budget and report the computations to the board of county commissioners in accordance
23 with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;
- 24 (q) file and forward bus driver certifications, transportation contracts, and state transportation
25 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;
- 26 (r) for districts that do not employ a district superintendent or principal, recommend library book and
27 textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;
- 28 (s) notify the superintendent of public instruction of a textbook dealer's activities when required under
29 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;
- 30 (t) act on district requests to allocate federal money for indigent children for school food services in

1 accordance with the provisions of 20-10-205;

2 (u) perform any other duty prescribed from time to time by this title, any other act of the legislature, the
3 policies of the board of public education, the policies of the board of regents relating to community college
4 districts, or the rules of the superintendent of public instruction;

5 (v) administer the oath of office to trustees without the receipt of pay for administering the oath;

6 (w) keep a record of official acts, preserve all reports submitted to the superintendent under the
7 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable
8 to the administration of the office, and surrender all records, books, supplies, and equipment to the next
9 superintendent;

10 (x) within 90 days after the close of the school fiscal year, publish an annual report in the county
11 newspaper stating the following financial information for the school fiscal year just ended for each district of the
12 county:

13 (i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

14 (ii) the total receipts that were realized in each fund maintained by the district;

15 (iii) the total expenditures that were made from each fund maintained by the district; and

16 (iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal
17 year; and

18 (y) hold meetings for the members of the trustees from time to time at which matters for the good of the
19 districts must be discussed.

20 (2) (a) When a district in one county annexes a district in another county, the county superintendent of
21 the county where the annexing district is located shall perform the duties required by this section.

22 (b) When two or more districts in more than one county consolidate, the duties required by this section
23 must be performed by the county superintendent designated in the same manner as other county officials in
24 20-9-202."

25

26 **Section 5.** Section 20-6-502, MCA, is amended to read:

27 **"20-6-502. Opening or reopening of elementary school.** The trustees of any elementary district may
28 open or reopen an elementary school of the district when the opening or reopening has been approved in
29 accordance with the following procedure:

30 (1) The parents of at least two pupils who would attend the opened or reopened school petition the

1 trustees of the district to open or reopen a school. The petition must identify the school, state the reasons for
2 requesting the opening or reopening, and give the names of the children who would attend the school.

3 (2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy
4 of their approval resolution to the county superintendent. The county superintendent shall review the petition to
5 determine if the average actual number belonging (ANB) of the school would be two or more. If the trustees plan
6 to open or reopen the school during the current school fiscal year, the trustees shall include the proposed opening
7 date in the approval resolution and shall request that the process outlined in this section be expedited.

8 (3) The county superintendent shall present the petition, the trustees' approval, and the county
9 superintendent's findings on the probable ANB to the board of county commissioners for their consideration. The
10 board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate
11 calculation for the school is less than two ANB. In all other cases, the board may approve or disapprove the
12 requested opening or reopening of the elementary school.

13 (4) (a) If the board approves a school opening or reopening, the county superintendent shall send a copy
14 of the approval, along with the petition, the trustees' approval, and the county superintendent's estimate
15 calculation of the probable ANB, to the superintendent of public instruction. Except under the circumstances
16 described in subsection (4)(b), the trustees shall apply to the superintendent of public instruction for approval to
17 open or reopen the school by June 1 prior to the beginning of the school year in which they intend to open or
18 reopen the elementary school. The superintendent of public instruction shall approve or disapprove the requested
19 opening or reopening of the elementary school by the fourth Monday of June. If the opening or reopening is
20 approved, the superintendent of public instruction shall approve or adjust the ANB estimate calculation of the
21 county superintendent for the school and the ANB amount must be used for budgeting and BASE funding
22 program purposes during the ensuing school fiscal year. An ANB amount may not be approved for the ensuing
23 school fiscal year for an opening or reopening school when the request for the school has not been received by
24 the superintendent of public instruction by June 1.

25 (b) (i) If the opening or reopening is approved and the trustees want to open or reopen the school during
26 the current school fiscal year, the trustees shall submit a budget request to the superintendent of public instruction
27 for that portion of the fiscal year in which the school will be in operation prior to the ensuing school fiscal year.
28 The superintendent of public instruction shall approve or adjust the budget request and shall fund the budget for
29 the portion of the school year in which the school will be in operation.

30 (ii) Before a school may open or reopen during the current school fiscal year, the school must be

1 classified as an isolated school in accordance with the provisions of 20-9-302, except that the dates in that
 2 section for the submission and approval of the application for classification do not apply and the application must
 3 be made at the same time that the application for opening or reopening the school is made."

4

5 **Section 6.** Section 20-6-503, MCA, is amended to read:

6 **"20-6-503. Opening or reopening of a high school.** (1) The trustees of any high school district may
 7 open or reopen a high school of the district or a branch of a high school of the district when ~~such the~~ opening or
 8 reopening has been approved by the superintendent of public instruction, ~~;~~ except that when a county high school
 9 is discontinued by a unification action, the trustees may establish, by resolution, a high school to be operated by
 10 the high school district without further action or approval. When the trustees of a high school district resolve to
 11 open or reopen a high school, they shall apply to the superintendent of public instruction for approval to open or
 12 reopen ~~such the~~ school by June 1 before the school fiscal year in which they intend to open or reopen the high
 13 school. ~~Such The~~ application shall state:

- 14 (a) their reasons why the high school should be opened or reopened;
- 15 (b) the probable enrollment of ~~such the~~ high school;
- 16 (c) the distance and road conditions of the route to neighboring high schools;
- 17 (d) the taxable value of the district;
- 18 (e) the building and equipment facilities available for ~~such the~~ high school;
- 19 (f) the planned course of instruction for ~~such the~~ high school;
- 20 (g) the planned methods of complying with high school standards of accreditation; and
- 21 (h) any other information that may be required by the superintendent of public instruction.

22 (2) The superintendent of public instruction shall investigate the application for the opening or reopening
 23 of a high school and shall approve or disapprove the opening of the high school before the fourth Monday of June
 24 preceding the first year of intended operation. If the opening is approved, the high school district trustees may
 25 open ~~such the~~ high school.

26 (3) Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year,
 27 the county superintendent shall ~~estimate~~ calculate the ~~average~~ actual number belonging (ANB) after investigating
 28 the probable enrollment for the high school. The ANB determined by the county superintendent ~~shall~~ must be
 29 used for budgeting and BASE funding program purposes.

30 (4) Nothing ~~herein contained shall~~ in this section may be construed so as to preclude the trustees of a

1 high school district from establishing more than one high school in the district."

2

3 **Section 7.** Section 20-6-504, MCA, is amended to read:

4 **"20-6-504. Opening of a junior high school.** (1) The trustees of any elementary district and the trustees
5 of the high school district in which ~~such the~~ elementary district is located may open a junior high school when
6 ~~such the~~ opening has been approved by the superintendent of public instruction, except that when the high
7 school district operates a county high school, the opening of a junior high school ~~shall~~ must be approved under
8 the provisions of 20-6-505.

9 (2) When the trustees of ~~such the~~ districts resolve to open a junior high school, they shall jointly apply
10 to the superintendent of public instruction for approval to open ~~such the~~ school by June 1 before the school fiscal
11 year in which they intend to open the junior high school. The application ~~shall~~ must contain ~~such the~~ information
12 ~~as is~~ required under 20-6-503 for an application to open a high school.

13 (3) The superintendent of public instruction shall investigate the application for the opening of a junior
14 high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of
15 June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary
16 district and the high school district may jointly open ~~such the~~ school.

17 (4) Whenever the opening of a junior high school is approved for the ensuing school fiscal year, the
18 county superintendent shall ~~estimate~~ calculate the ~~average actual~~ number belonging (ANB) after investigating
19 the probable enrollment for the junior high school. The ANB determined by the county superintendent ~~shall~~ must
20 be used for budgeting and BASE funding program purposes during the ensuing school fiscal year."

21

22 **Section 8.** Section 20-6-506, MCA, is amended to read:

23 **"20-6-506. Budgeting and cost sharing when junior high school operated by elementary district**
24 **and high school district operating county high school.** (1) Whenever the opening of a junior high school is
25 approved for the ensuing school fiscal year under 20-6-505, the county superintendent shall ~~estimate~~ calculate
26 the ~~average actual~~ number belonging (ANB) after investigating the probable enrollment for the junior high school.
27 The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal
28 years must be applied to prorate the BASE funding program amount between the elementary and high school
29 districts. Each district shall adopt its general fund budget on the basis of the prorated amount and shall finance
30 its proportionate share of the cost of operating the junior high school.

1 (2) The cost of operating the junior high school must be prorated between the elementary district and
2 the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment
3 of the junior high school."
4

5 **Section 9.** Section 20-9-311, MCA, is amended to read:

6 **"20-9-311. Calculation of average actual number belonging (ANB) -- three-year averaging.** (1)
7 Average Actual number belonging (ANB) must be computed for each budget unit as follows:

8 (a) compute an average actual enrollment by adding a count of regularly enrolled full-time pupils who
9 were actually enrolled each day of the school year ~~as of the first Monday in October~~ of the prior current school
10 fiscal year to a count of regularly enrolled full-time pupils who were actually enrolled ~~on February 1 of~~ during the
11 prior school fiscal year, ~~or the next school day if those dates do not fall on a school day~~, and divide the sum by
12 two; and

13 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
14 pupil-instruction-related days for the current school fiscal year and divide by 180.

15 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
16 days may be included in the calculation.

17 (3) When a school district has approval to operate less than the minimum aggregate hours under
18 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

19 (4) (a) For the purpose of calculating ANB, enrollment in an education program:

20 (i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time
21 enrollment;

22 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
23 enrollment;

24 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
25 enrollment; and

26 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

27 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
28 school year may not be included for purposes of ANB.

29 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
30 the hours necessary and appropriate to provide the course within a regular classroom schedule.

1 (d) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school,
2 program, or district may not be counted as more than one full-time pupil for ANB purposes.

3 (5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state
4 superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose
5 of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the
6 purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten
7 enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for
8 districts offering full-time kindergarten.

9 ~~(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,~~
10 ~~the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes~~
11 ~~attendance prior to the day of the enrollment count.~~

12 ~~(7)(6)~~ The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB
13 calculations.

14 ~~(8)(7)~~ The ~~average~~ actual number belonging of the regularly enrolled, full-time pupils for the public
15 schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils actually attending
16 the schools of the district, except that the ANB is calculated as a separate budget unit when:

17 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
18 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
19 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must
20 receive a basic entitlement for the school calculated separately from the other schools of the district;

21 (ii) a school of the district is located more than 20 miles from any other school of the district and
22 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
23 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
24 calculated separately from the other schools of the district;

25 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
26 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
27 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
28 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
29 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
30 other schools of the district; or

1 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
2 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
3 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
4 years as follows:

5 (A) 75% of the basic entitlement for the fourth year;

6 (B) 50% of the basic entitlement for the fifth year; and

7 (C) 25% of the basic entitlement for the sixth year.

8 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
9 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
10 purposes;

11 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
12 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
13 school pupils for ANB purposes; or

14 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
15 pupils attending the nonaccredited school are not eligible for ~~average~~ actual number belonging calculation
16 purposes, nor will an ~~average~~ actual number belonging for the nonaccredited school be used in determining the
17 BASE funding program for the district.

18 ~~(9)~~(8) The district shall provide the superintendent of public instruction with semiannual reports of daily
19 school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
20 superintendent.

21 ~~(10)~~(9) (a) Except as provided in subsections ~~(10)~~(b) (9)(b) and ~~(10)~~(e) (9)(c), enrollment in a basic
22 education program provided by the district through any combination of onsite or offsite instruction may be
23 included for ANB purposes only if the pupil is offered access to the complete range of educational services for
24 the basic education program required by the accreditation standards adopted by the board of public education.

25 (b) Access to school programs and services for a student placed by the trustees in a private program
26 for special education may be limited to the programs and services specified in an approved individual education
27 plan supervised by the district.

28 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
29 youth detention center, may be limited to the programs and services provided by the district at district expense
30 under an agreement with the incarcerating facility.

1 (d) This subsection ~~(40)~~ (9) may not be construed to require a school district to offer access to activities
2 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
3 pupil who is not otherwise eligible under the rules of the organization.

4 ~~(44)~~(10) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under
5 this title and who is:

6 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
7 agreement and who is attending a school of the district;

8 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving
9 individualized educational services supervised by the district, at district expense, at a home or facility that does
10 not offer an educational program;

11 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention
12 center, and who is receiving individualized educational services supervised by the district, at district expense, at
13 a home or facility that does not offer an educational program;

14 (d) receiving special education and related services, other than day treatment, under a placement by the
15 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
16 expense under an approved individual education plan supervised by the district;

17 (e) participating in the running start program at district expense under 20-9-706;

18 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
19 a private residential program or private residential facility licensed by the department of public health and human
20 services;

21 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
22 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
23 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite
24 instructional setting with the approval of the trustees of the district. The pupil shall:

25 (i) meet the residency requirements for that district as provided in 1-1-215;

26 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
27 Education Act or under 29 U.S.C. 794; or

28 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

29 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
30 the district under 20-9-707.

1 ~~(12)~~(11) (a) For an elementary or high school district that has been in existence for 3 years or more, the
 2 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
 3 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
 4 generates the greatest maximum general fund budget.

5 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
 6 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
 7 high school programs pursuant to subsection ~~(12)(a)~~ (11)(a) and then combined.

8 ~~(13)~~(12) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated
 9 by:

10 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
 11 previous 2 school fiscal years; and

12 (b) dividing the sum calculated under subsection ~~(13)(a)~~ (12)(a) by three."

13

14 **Section 10.** Section 20-9-313, MCA, is amended to read:

15 **"20-9-313. Circumstances under which regular average actual number belonging may be**
 16 **increased.** (1) The average actual number belonging of a school, calculated in accordance with the ANB formula
 17 prescribed in 20-9-311, may be increased when:

18 (a) the opening of a new elementary school or the reopening of an elementary school has been approved
 19 in accordance with 20-6-502. The average actual number belonging for the school must be established by the
 20 county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

21 (b) the opening or reopening of a high school or a branch of the county high school has been approved
 22 in accordance with 20-6-503, 20-6-504, or 20-6-505. The average actual number belonging for the high school
 23 must be established by the county superintendent's estimate calculation, after an investigation of the probable
 24 number of pupils that will attend the high school.

25 (c) a district anticipates an increase in the average actual number belonging due to the closing of a
 26 private or public school in the district or a neighboring district. The estimated calculated increase in average
 27 actual number belonging must be established by the trustees and the county superintendent and approved,
 28 disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June.

29 (d) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase
 30 in average actual number belonging must be based on estimates of increased enrollment approved by the

1 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

2 (e) for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB
3 to be used for budget purposes is:

4 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the preceding
5 school year, either as shown on the official school census or as determined by some other procedure approved
6 by the superintendent of public instruction, for the purpose of implementing a half-time kindergarten program as
7 provided in 20-1-301; or

8 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school
9 year, either as shown on the official school census or as determined by some other procedure approved by the
10 superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided
11 in 20-1-301; or

12 (f) a high school district provides early graduation for a student who completes graduation requirements
13 in less than eight semesters or the equivalent amount of secondary school enrollment. The increase must be
14 established by the trustees as though the student had attended to the end of the school fiscal year and must be
15 approved, disapproved, or adjusted by the superintendent of public instruction.

16 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time
17 kindergarten program."
18

19 **Section 11.** Section 20-9-314, MCA, is amended to read:

20 **"20-9-314. Procedures for determining eligibility and amount of increased average actual number**
21 **belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment
22 in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its basic entitlement and total
23 per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

24 (1) Prior to June 1, the district shall ~~estimate~~ calculate the elementary or high school enrollment to be
25 realized during the ensuing school fiscal year, based on as much factual information as may be available to the
26 district.

27 (2) No later than June 1, the district shall submit its application for an unusual enrollment increase by
28 elementary or high school level to the superintendent of public instruction. The application must include:

29 (a) the enrollment for the current school fiscal year;

30 (b) the average actual number belonging used to calculate the basic entitlement and total per-ANB

1 entitlement for the current school fiscal year;

2 (c) the ~~average~~ actual number belonging that will be used to calculate the basic entitlement and total
3 per-ANB entitlement for the ensuing school fiscal year;

4 (d) the ~~estimated~~ calculated enrollment, including the factual information on which the ~~estimate~~
5 calculation is based, as provided in subsection (1); and

6 (e) any other information or data that may be requested by the superintendent of public instruction.

7 (3) The superintendent of public instruction shall immediately review all the factors of the application and
8 shall approve or disapprove the application or adjust the ~~estimated~~ calculated ~~average~~ actual number belonging
9 for the ensuing ANB calculation period. After approving ~~an estimate~~ a calculation, with or without adjustment, the
10 superintendent of public instruction shall:

11 (a) determine the percentage by which the ~~estimated~~ calculated enrollment exceeds the enrollment used
12 for the budgeted ANB; and

13 (b) approve an increase of the ~~average~~ actual number belonging used to establish the ensuing year's
14 basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection
15 (3)(a) is at least 6%.

16 (4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday
17 in June.

18 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,
19 the increase of the ~~average~~ actual number belonging used to establish the basic entitlement and total per-ANB
20 entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for
21 the ensuing school fiscal year and 106% of the enrollment used to calculate the budgeted ANB. The amount
22 determined is the maximum allowable increase added to the ~~average~~ actual number belonging for the purpose
23 of establishing the ensuing year's basic entitlement and total per-ANB entitlement.

24 (6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end
25 of the ensuing school fiscal year.

26 (b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the
27 superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations,
28 as provided in subsection (5), using the actual enrollment in place of the ~~estimated~~ calculated enrollment. All total
29 per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to
30 the refund provisions of 20-9-344(4)."

1

2 **Section 12.** Section 20-9-707, MCA, is amended to read:

3 **"20-9-707. Agreement with accredited Montana job corps program.** (1) The trustees of a school
4 district may enter into an interlocal cooperative agreement for the ensuing school fiscal year under the provisions
5 of Title 7, chapter 11, part 1, with a Montana job corps program accredited by the northwest association of
6 schools and colleges to provide educational or vocational services that are supplemental to the educational
7 programs offered by the resident school district.

8 (2) A student who receives educational or vocational services at a Montana job corps program pursuant
9 to an agreement authorized under subsection (1) must be enrolled, for purposes of calculating ~~average~~ actual
10 number belonging, in a public school in the student's district of residence. Credits taken at the accredited Montana
11 job corps program must be approved by the school district and meet the requirements for graduation at a school
12 in the student's district of residence, must be taught by an instructor who has a current and appropriate Montana
13 high school certification, and must be reported by the institution to the student's district of residence. Upon
14 accumulating the necessary credits at either a school in the district of residence or at an accredited Montana job
15 corps program pursuant to an interlocal cooperative agreement, a student must be allowed to graduate from the
16 school in the student's district of residence.

17 (3) A school district that, pursuant to an interlocal cooperative agreement, allows an enrolled student to
18 attend a Montana job corps program accredited as prescribed in subsection (1) is not responsible for payment
19 of the student's transportation costs to the job corps program.

20 (4) A student attending a job corps program may not claim the job corps program's facility as the
21 student's residence for the purposes of this section."

22

23 NEW SECTION. **Section 13. Effective date -- applicability.** [This act] is effective July 1, 2009, and
24 applies to school fiscal years beginning on or after July 1, 2012.

25

- END -